

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0208-05  
Bill No.: Perfected HS for HB 286  
Subject: Business and Commerce; Revenue Dept.; Taxation and Revenue-Sales and Use  
Type: Corrected  
Date: April 25, 2001  
#Corrected totals on page 6.

---

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
General Revenue	(\$3,243,033)	\$1,616,490	\$1,616,490
School District Trust	(\$704,405)	\$0	\$0
Conservation	(\$88,051)	\$0	\$0
Parks and Soil	(\$70,441)	\$0	\$0
Mental Health Trust Fund	Less than \$22,000,000	Unknown	Unknown
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>Less than \$17,894,070</b>	<b>\$1,616,490 to UNKNOWN</b>	<b>\$1,616,490 to UNKNOWN</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 9 pages.

---

## **FISCAL ANALYSIS**

### ASSUMPTION

#### *Sales tax refunds*

Officials from the **Department of Revenue (DOR)** assume this portion of the legislation as worded would require sales tax refunds to be refunded or credited to the person who originally paid the sales tax. The person who remits the tax must demonstrate that the sales tax refund will be refunded to the person who originally paid the tax prior to DOR refunding. Any over-collected sales tax not refunded to the purchaser will be credited to the Mental Health Trust Fund. This portion of the legislation also allows the Director of Revenue to determine any additional revenue created resulting from this legislation and consider increasing the 2% timely discount received by timely sales tax filers.

DOR assumes this portion of the legislation could result in a decrease in sales tax refunds for FY 02 of approximately \$22 million. DOR does not foresee any additional savings due to the additional documentation that will be required in order to apply for a sales tax refund. DOR assumes a minimal impact on programming to be completed with existing resources. DOR does not anticipate any administrative impact from the transfer of funds to the Mental Health Trust Fund.

This portion of the proposal gives the Director the authority to adjust the two percent timely discount, but does not require the Director to do so. Therefore, there will be no impact until the Director opts to implement this part of the legislation.

Officials from the **Office of Administration, Budget and Planning (BAP)** state DOR is better suited to respond to this portion of the proposal.

Officials from the **Office of the State Treasurer (STO)** state this portion of the proposal would not impact their agency.

Officials from the **Department of Mental Health (DMH)** assume this portion of the legislation states that sales or use tax erroneously or illegally collected and remitted by a person to the director of revenue that is not refunded or credited to the person legally obligated to remit the tax or the purchasers that originally paid the tax shall be deposited in the Mental Health Trust Fund (MHTF) for the purpose of funding programs for the mentally retarded or developmentally disabled.

DMH assumes, based on estimates by the DOR, that up to \$22 million would be deposited to the MHTF. This portion of the legislation states the funds would then be used for the purpose of funding programs for the mentally retarded or developmentally disabled. DMH assumes, based on conversations with DOR, that the funds are available on a one-time basis in FY02. The

### ASSUMPTIONS (continued)

Division of Mental Retardation and Developmental Disabilities has many individuals waiting for services that could be served with these funds. However, since the funds are one-time in nature, this may affect the Division's ability to serve these individuals on an on-going basis. Further, DMH assumes that the spending of the funds would be subject to appropriation by the General Assembly.

**Oversight** assumes the determination of the amount to transfer to the Mental Health Trust Fund annually may not be feasible administratively. In addition, since DOR's estimate is based on prior year refund amounts and DOR assumes taxpayers will become better informed about sales tax rules and not overcharge customers in the future with the passage of this legislation, Oversight has shown the fiscal impact in FY03 and FY04 as unknown.

#### *Simplified Sales/Use Tax Agreement*

Officials of the **Department of Revenue (DOR)** state this portion of the legislation, as worded, would implement through the General Assembly the adoption of the Simplified Sales and Use Tax Administration Act which allows Missouri to continue in the Streamlined Sales Tax Project. DOR assumes this portion of the legislation would not fiscally impact their agency. Also, DOR assumes this language does not contain any conforming language or change any current law provisions, so it will have no revenue impact.

Officials of the **Office of Administration, Budget and Planning (BAP)** assume this portion of the bill has no fiscal impact to their agency and DOR is better suited to respond to this portion of the proposal.

In a similar prior proposal, the **Office of the Governor** and the **Missouri Senate** assumed this portion of the proposal would have no direct fiscal impact on their agencies.

Officials from the **Counties of St. Louis and St. Charles** did not respond to this fiscal note request.

**Oversight** assumes, for purposes of this fiscal note, this portion of the proposal allows DOR to pursue the Streamlined Sales and Use Tax Agreement and make preparations for its implementation, which would not occur until the legislature takes further action to bring Missouri law into compliance with the agreement. Once an agreement is reached with other states, an increase in the compliance of sales/use tax collections would occur. This amount is unknown, as well as when this will occur. Oversight assumes the revenue impact of this proposal would be zero.

## ASSUMPTIONS (continued)

### *Pension Exemption*

Officials of the **Department of Revenue (DOR)** state this portion of the legislation clarifies that the pension exemption will apply only when the pension is included in the taxpayers federal adjusted gross income and not otherwise subtracted. This portion of the proposal would have little or no administrative impact to DOR. DOR assumes the BAP will estimate the revenue impact.

Officials of the **Office of Administration, Budget and Planning (BAP)** state that currently taxpayers that have Railroad Retirement Benefits can subtract their retirement benefits from their adjusted gross income on their Missouri income tax return. These same taxpayers may currently also take the pension exemption on the Missouri income tax return. This portion of the proposal does not allow the pension exemption for Railroad Retirement Benefits, because they are already excluded from adjusted gross income. This would eliminate deducting the benefits twice.

According to Table 545 in the 1999 Statistical Abstract, Railroad Retirement Benefits are \$8 billion nationally. BAP staff assume that 1.9% of this total is paid to Missourians. A 4.5% marginal tax rate was assumed.

According to the actuary section of the Railroad Retirement Board, there are approximately 315,100 railroad retirees nationally. Dividing \$8 billion by the 315,100 retirees yields an average pension of \$25,400 annually. **Oversight** assumes that 1.9% of the 315,100 retirees (5,987) are located in Missouri. The maximum amount of the pension exemption is \$6,000. **Oversight** has calculated the revenue impact of this portion of the proposal by multiplying the \$6,000 by 5,987 retirees and assuming a 4.5% marginal tax rate. This would yield a savings of \$1,616,490 annually by eliminating the ability to deduct Railroad Retirement Benefits twice.

### *Sales Tax Holiday*

Officials of the **Office of Administration - Division of Budget and Planning (BAP)** assume this portion of the proposal would allow for a sales tax "holiday" on the purchase of clothing and shoes.

BAP estimates the annual consumer spending in Missouri on clothing and shoes based on national estimates from the U.S. Department of Commerce - Bureau of Economic Analysis. BAP staff assumes Missouri represents 1.9% of U.S. totals. BAP staff estimates taxable sales for FY2002 to be \$6,427,700,000, taxable sales for FY 2003 to be \$6,686,100,000 and taxable sales for FY 2004 to be \$6,953,544,000.

BAP states, as was the case with similar proposals from last year, there is no information available that addresses what percent of these expenditures would qualify for the exemption or

ASSUMPTIONS (continued)

how effective this program would be in so far as motivating the public to shop for clothing during the tax “holiday”.

Officials of the **Department of Revenue (DOR)** state this portion of the legislation creates a state sales and use tax holiday for all retail sales of clothing with a taxable value of one hundred dollars or less from August 9, 2001 to August 12, 2001. Any local revenue lost will be reimbursed by the state.

DOR will have to notify all sales tax accounts of the holiday period. 127,000 notification letters will have to be sent to the registered accounts at a cost of \$43,910. DOR stated their workload measures but did not provide an estimate of any FTE needed.

DOR will need to create a new item tax; however, it should be noted that this could be confusing and difficult to explain to taxpayers. DOR’s MITS sales tax system will need to be programmed to recognize the new item tax. DOR estimates 727 hours of programming at a total cost of \$24,569. The state data center charges will be \$4,730.

**Oversight**, for purposes of this fiscal note, has reflected the loss in sales tax revenue based upon the estimate provided by the Office of Administration, Budget and Planning and the actual impact similar legislation had on other states. The revenue estimate was based on 4/365 of the FY 2002 taxable sales, resulting in a total revenue loss of \$3 million in FY 2002 to state funds due to the sales tax holidays. Oversight made no adjustment for the \$100 cap. Also, no adjustment was made for any incentive effect this proposal might have on spending habits. Oversight assumes the mailing costs would be incurred in July before the August sales tax holiday. In addition, Oversight has included the programming costs requested by DOR since this legislation includes a reimbursement to local government for any local sales tax revenue lost and it is assumed DOR will be required to track the sales tax revenue lost.

For a similar prior proposal, Oversight contacted three states that enacted similar legislation, the **State of Texas**, the **State of Florida** and the **State of New York**. Texas had a Sales Tax Holiday on clothing and footwear during a three day period in August, 1999. Florida had a nine day sales tax holiday period on clothing and footwear in August, 1998, and New York has had several such “holidays” in 1997, 1998 and 1999. Oversight assumes that similar impacts would occur in Missouri and have applied their taxable sales during the holidays to the Gross State Product in Chained (1992) Dollars, by industry from the U.S. Census Bureau, *the Official Statistics, Statistical Abstract of the United States: 1998* to determine what Missouri’s taxable sales in a similar period might be. The comparison reveals that by using the Office of Administration, Budget and Planning’s estimated sales of clothing and footwear in Missouri for a given fiscal year, a reasonable estimate could be made to the actual impact a sales tax holiday would have. Oversight assumes that the same impact will occur whether the exemption applied

ASSUMPTIONS (continued)

to clothing or shoes under \$500 as it would for clothing under \$100. Oversight also assumes that the results could be applied over a three day exemption as it would for a seven day exemption, as it would for a thirty-one day exemption.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
---	---------------------	---------	---------

**GENERAL REVENUE FUND**

*Sales tax refunds*

<u>Revenue - General Revenue Fund</u>	Less than		
Reduction in sales tax refunds	\$22,000,000	Unknown	Unknown

<u>Transfer to Mental Health Trust Fund</u>	Less than		
Reduction in sales tax refunds	(\$22,000,000)	(Unknown)	(Unknown)

*Pension Exemption*

<u>Savings to General Revenue Fund</u>			
Elimination of Railroad Retirement Benefits being deducted twice	\$0	\$1,616,490	\$1,616,490

*Sales Tax Holiday*

<u>Cost to General Revenue Fund</u>			
<u>Department of Revenue (DOR)</u>			
Programming costs	(\$29,299)	\$0	\$0
Postage	<u>(\$43,910)</u>	<u>\$0</u>	<u>\$0</u>
Total costs - DOR	(\$73,209)	\$0	\$0

<u>Loss to General Revenue Fund</u>			
Clothing sales tax exemption	(\$2,113,216)	\$0	\$0

Transfer to Local Government

Reimbursement for loss in local sales tax revenue	<u>(\$1,056,608)</u>	<u>\$0</u>	<u>\$0</u>
---	----------------------	------------	------------

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND#</b>	<b><u>(\$3,243,033)</u></b>	<b><u>\$1,616,490</u></b>	<b><u>\$1,616,490</u></b>
--	-----------------------------	---------------------------	---------------------------

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<b><u>Loss to School District Trust Fund</u></b>			
Clothing sales tax exemption	<b>(\$704,405)</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Loss to Conservation Fund</u></b>			
Clothing sales tax exemption	<b>(\$88,051)</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Loss to Parks and Soil Funds</u></b>			
Clothing sales tax exemption	<b>(\$70,441)</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Revenue - Mental Health Trust Fund</u></b>	<b>Less than</b>		
Transfer-Reduction in sales tax refunds	<b>\$22,000,000</b>	<b>Unknown</b>	<b>Unknown</b>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<b><u>Loss to Cities</u></b>			
Clothing sales tax exemption	(\$633,965)	\$0	\$0
<b><u>Loss to Counties</u></b>			
Clothing sales tax exemption	(\$422,643)	\$0	\$0
<b><u>Income from General Revenue</u></b>			
Reimbursement	<u>\$1,056,608</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT TO LOCAL GOVERNMENT</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

This legislation could affect all businesses that collect sales tax. Sales tax paperwork will be increased for the month that the "holiday" sales tax days are exempt.

## DESCRIPTION

### *Sales tax refunds*

This bill requires that any request for a refund of sales taxes by a person who collects and remits the tax will only be granted if the person demonstrates to the satisfaction of the Director of Revenue that the amount will be refunded or credited to the person who originally paid the sales tax. The restriction will not apply if the person seeking the refund shows to the director's satisfaction that he or she originally paid the tax and that it was not collected from the purchasers.

Any funds collected but not refunded under subsection 3 of Section 144.190 shall be deposited in the Mental Health Trust Fund, pursuant to Section 630.330, for the purpose of funding programs for the mentally retarded or developmentally disabled.

### *Simplified Sales/Use Tax*

This bill creates the Simplified Sales and Use Tax Administration Act.

The act allows the State of Missouri to enter into the Streamlined Sales and Use Tax Agreement with one or more states to simplify the sales and use tax laws and brings the laws into general conformity among the agreeing states. The act also allows the state to continue negotiations with other states to determine the best approach for obtaining conformity.

The act allows the Department of Revenue to adopt administrative rules and procure goods and services in furtherance of the cooperative agreement. The act also provides for the development of certified service providers for the purpose of collecting and remitting sales and use tax on behalf of sales and use taxpayers. The bill will become effective January 1, 2002.

### *Pension Exemption*

This bill adds a provision to state income tax law that disallows a deduction for an annuity, pension, or retirement allowance to the extent the amount is excluded from federal adjusted gross income or is otherwise deducted from the calculation of state taxable income.

### *Sales Tax Holiday*

This bill exempts from state sales and use tax the sale of certain clothing when sold during four designated days in the month of August. Each individual item must sell for \$100 or less to qualify for the exemption. This legislation contains an emergency clause so that the effective dates for this exemption are August 9, 2001 to August 12, 2001. The state will reimburse political subdivisions for any revenue lost as a result of the holiday.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.



SOURCES OF INFORMATION

Department of Revenue  
Office of Administration  
Division of Budget and Planning  
Office of the State Treasurer  
Department of Mental Health  
Office of the Governor  
Missouri Senate  
Railroad Retirement Board  
State of Texas  
State of Florida  
State of New York

NOT RESPONDING: Counties of St. Louis and St. Charles

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large, circular initial "J" and a cursive "Jarrett".

Jeanne Jarrett, CPA  
Director  
April 25, 2001